

STATE • INDIANA



INDIANA UTILITY REGULATORY COMMISSION
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PETITION OF INDIANA-AMERICAN)
WATER COMPANY, INC. FOR)
AUTHORITY TO INCREASE ITS)
RATES AND CHARGES FOR WATER)
AND SEWER SERVICE AND FOR)
APPROVAL OF NEW SCHEDULES OF)
RATES AND CHARGES APPLICABLE)
THERE TO)

CAUSE NO. 42520

FILED

FEB 24 2004

INDIANA UTILITY
REGULATORY COMMISSION

You are hereby notified that on this date the Presiding Officers make the following entry in this Cause:

On February 13, 2004, the Town of Merrillville, Indiana ("Petitioner") filed its *Petition to Intervene* ("Petition") in the above captioned Cause. 170 IAC 1-1.1-11 governs intervention in Commission proceedings and states that:

- (a) A petition to intervene may be filed by any person or entity alleging a substantial interest in the subject matter of the proceeding in which the person or entity requests leave to intervene.
- (b) Petitions to intervene shall set out clearly and concisely facts showing the following:
 - (1) The proposed intervenor's substantial interest in the subject matter of the proceeding.
 - (2) The position of the proposed intervenor with respect to the matters involved in the proceeding.
 - (3) Specific prayers for affirmative relief, if desired.
 - (4) A prayer for leave to intervene and to be made a party to the proceeding.
- (c) A petition to intervene shall be filed not less than five (5) days prior to the date set for the initial public evidentiary hearing on the merits. A petition to intervene may be filed and granted thereafter at the discretion of the presiding officer, upon good cause shown.

- (d) If a petition to intervene satisfies this section and shows the proposed intervenor has a substantial interest in the subject matter of the proceeding or any part thereof, and the proposed intervenor's participation will not unduly broaden the issues or result in unreasonable delay of the proceeding, the presiding officer may grant the prayer for leave to intervene, in whole or in part and, thereupon, the intervenor becomes a party to the proceeding with respect to the matters set out in the intervention petition.
- (e) An intervenor is bound by all rulings and other matters of record prior to the time the intervenor is made a party and takes the case as the intervenor finds it as of the date of intervention.
- (f) Petitions to intervene, when filed with the commission, shall show service thereof upon all parties to the proceeding, in conformity with section 13 of this rule.
- (g) A party may object to a petition to intervene, and, absent objection thereto, may be deemed to have waived any objection to the granting of the petition. Any response shall be filed within seven (7) days after service of the petition to intervene and shall be served upon all other parties unless the presiding officer prescribes a different time. Any reply to the responses shall be filed within five (5) days after service of the response unless the presiding officer prescribes a different time. Responses or replies may be made orally at the time of hearing or prehearing conference if there exists insufficient time prior to the hearing or conference to make written response or reply according to the deadlines provided under this section.

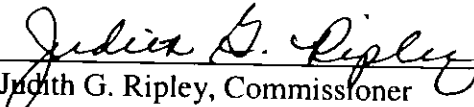
The initial public evidentiary hearing on the merits in this Cause was commenced on January 13, 2004. The Petition was not filed at least five (5) days prior to that evidentiary hearing, as required by 170 IAC 1-1.1-11(c). Therefore, the Petition can only be granted at the discretion of the Presiding Officers, for good cause shown. Even though the Petitioner does not discuss its untimely filing in its Petition, the Presiding Officers note the following:

- Similar to the Town of Schererville, Petitioner has a substantial interest in this Cause. The Town of Schererville was previously granted intervention in this proceeding.
- The evidentiary hearing on the merits in this Cause has been bifurcated. Indiana-American Water Company, Inc. presented its case-in-chief at the hearing which commenced on January 13, 2004. The Indiana Office of Utility Consumer Counselor and the intervening parties will present their cases-in-chief, and Indiana-American will present its rebuttal testimony, commencing April 19, 2004. In addition, the Presiding Officers recently granted a motion to, among other things, extend the intervening parties' prefiling deadline from February 24, 2004, to March 10, 2004. As a result of this bifurcation and prefiling extension, there remains an opportunity for Petitioner to substantively participate in this proceeding.

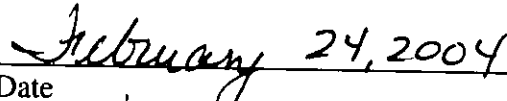
- No party has objected to the Petition as allowed in 170 IAC 1-1.1-11(g). The parties, therefore, are deemed to have waived any objection to granting the Petition.

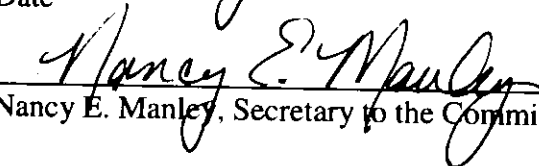
Having reviewed the Petition in this matter, and having considered whether good cause exists to grant the Petition, the Presiding Officers have determined that, except for 170 IAC 1-1.1-11(c), the Petition appears to satisfy the Commission's requirements for seeking intervention. The Petitioner has a substantial interest in the subject matter of this proceeding and Petitioner's participation will not unduly broaden the issues or result in unreasonable delay. The Petition is granted, hereby making the Town of Merrillville a party to this proceeding.

IT IS SO ORDERED.


Judith G. Ripley, Commissioner


William G. Divine, Administrative Law Judge


Date


Nancy E. Manley, Secretary to the Commission